

REMARKS

Applicants submit this Amendment After Final in reply to the Final Office Action mailed January 26, 2004.

In this Amendment, Applicants have amended claims 11 and 45 to more clearly define the claimed invention. Claims 11 and 45 are the sole independent claims.

Before entry of this Amendment After Final, claims 11, 45, 47-57, 59-65, and 67-68 were pending in this application. After entry of this Amendment After Final, claims 11, 45, 47-57, 59-65, and 67-68 are still pending in this application.

The originally-filed specification, claims, abstract, and drawings fully support the subject matter of amended claims 11 and 45. No new matter was introduced.

On pages 2-5 of the Final Office Action, the Examiner rejected claims 11, 45, 48, 50-55, and 61-63 as being unpatentable over U.S. Patent No. 5,306,294 to Winston et al. ("Winston") in view of U.S. Patent Application Publication No. 2001/0034549 A1 to Bartholf et al. ("Bartholf"); rejected claims 47 and 49 under 35 U.S.C. § 103(a) as being unpatentable over Winston in view of Bartholf, and further in view of U.S. Patent No. 5,810,837 to Hofmann et al. ("Hofmann"); rejected claims 56, 57, 59, 60, 64, 65, 67, and 68 under 35 U.S.C. § 103(a) as being unpatentable over Winston in view of Bartholf, and further in view of U.S. Patent No. 5,100,381 to Burns. Applicants respectfully traverse this rejection and assert that none of Winston, Bartholf, Hofmann, or Burns, either individually or in combination, recite every aspect of the claimed invention.

For example, independent claims 11 and 45 each recite "an outer tubular structure having a proximal end, a distal end, an inner surface defining a lumen, and an outer surface, wherein the outer tubular structure has a translucent region at the distal

end and the translucent region has a length that substantially coincides with a constrained length of a stent to be placed within the outer tubular structure, wherein the outer tubular structure is devoid of braiding along the length of the translucent region between the inner and outer surfaces.” None of Winston, Bartholf, Hofmann, or Burns, either individually or in combination, recite at least this aspect of the claimed invention.

In the Office Action, the Examiner asserts that Bartholf discloses that the distal end region of an outer tubular structure should transmit light therethrough. The Examiner specifically refers to top coat 72. Even assuming *arguendo* that inner teflon layer 68, 69 of Bartholf corresponds to “an inner surface defining a lumen,” and the outermost surface of top coat 72 formed of a clear material corresponds to “an outer surface,” as can be seen in Fig. 3 of Bartholf, stainless steel braiding 70 is disposed between the inner surface of teflon layer 68, 69 and the outer surface of top coat 72. Thus, Bartholf does not disclose or suggest “wherein the outer tubular structure is devoid of braiding along the length of the translucent region between the inner and outer surfaces.” Moreover, none of Winston, Hofmann, or Burns remedy at least this deficiency of Bartholf. Accordingly, Applicants respectfully request withdrawal of the Section 103(a) rejection.

Claims 47-57, 59-65, 67, and 68 depend from one of independent claims 11 and 45, and are therefore allowable for at least the same reasons that each of those respective independent claims is allowable. In addition, at least some of the dependent claims recite unique combinations that are neither taught nor suggested by Winston, Bartholf, Hofmann, Burns, or other cited art, and therefore are separately patentable.

Applicants respectfully request that this Amendment After Final under 37 C.F.R. § 1.116 be entered by the Examiner, placing claims 11, 45, 47-57, 59-65, and 67-68 in condition for allowance. Applicants submit that the proposed amendments of claims 11 and 45 do not raise new issues or necessitate the undertaking of any additional search of the art by the Examiner, since all of the elements and their relationships claimed were either earlier claimed or inherent in the claims as examined. Therefore, this Amendment After Final should allow for immediate action by the Examiner.

Furthermore, Applicants respectfully point out that the final action by the Examiner presented some new arguments as to the application of the art against Applicants' invention. It is respectfully submitted that the entering of the Amendment After Final would allow the Applicants to reply to the final rejections and place the application in condition for allowance.

Finally, Applicants submit that the entry of the Amendment After Final would place the application in better form for appeal, should the Examiner dispute the patentability of the pending claims.

In view of the foregoing remarks, Applicants submit that this claimed invention, as amended, is neither anticipated nor rendered obvious in view of the prior art references cited against this application. Applicants therefore request the entry of this Amendment After Final, the Examiner's reconsideration and reexamination of the application, and the timely allowance of the pending claims.

The Office Action contains characterizations of the claims and the related art with which Applicants do not necessarily agree. Unless expressly noted otherwise, Applicants decline to subscribe to any statement or characterization in the Office Action.

For example, on page 3 of the Office Action, the Examiner asserts that certain claim features are admitted to be in the prior art. Applicants do not necessarily agree with that assertion and reserve the right to refute the assertion should the need arise.


In discussing the specification, claims, abstract, and drawings in this Amendment After Final, it is to be understood that Applicants are in no way intending to limit the scope of the claims to any exemplary embodiments described in the specification or abstract and/or shown in the drawings. Rather, Applicants are entitled to have the claims interpreted broadly, to the maximum extent permitted by statute, regulation, and applicable case law.

Please grant any extensions of time required to enter this Amendment After Final and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

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